

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA,

V.

(1) STRYKER BIOTECH, LLC

(2) MARK PHILIP

(3) WILLIAM HEPPNER

(4) DAVID ARD and

(5) JEFFREY WHITAKER,

Defendants.

Case No. 1:09-cr-10330-GAO

**JOINT MOTION TO EXTEND TIME FOR FILING OF
RESPONSES TO THE GOVERNMENT’S MOTIONS TO EXCLUDE
EXPERT TESTIMONY AND TO EXCLUDE EVIDENCE NOT PROVIDED
PRIOR TO SEPTEMBER 30, 2011 AND TO DEFENDANTS’ MOTIONS TO SEVER**

Defendants Stryker Biotech, LLC, Mark Philip, William Heppner, David Ard and Jeffrey Whitaker (collectively, "Defendants ") and the Government (collectively, the "Parties"), respectfully move this Court to extend certain deadlines as follows:

- 1) By 7 days, until September 30, 2011, the deadline for Defendants' response to the Government's Motion to Exclude Expert Testimony of Jonathan Grauer and William Caton III;
- 2) By 7 days, until September 30, 2011, the deadline for Defendants' response to the Government's Motion-In-Limine to Exclude Evidence Not Provided As Required By Defendants' Discovery Obligations Prior to September 30, 2011; and
- 3) By 3 days, 2 days and 2 days respectively, until September 30, 2011, the deadlines for the Government's responses to (a) Defendants William Heppner, David Ard and Jeffrey Whitaker's Motion to Sever Count 15 Due to Misjoinder

Under Federal Rule of Criminal Procedure 8(b), (b) Defendant Stryker Biotech's Motion to Sever Count 15 and (c) Defendant Mark Philip's Motion to Sever Count 15.

Pursuant to discussion at a Status Conference on September 15, 2011, trial in this case will begin on January 9, 2012 rather than November 7, 2011 as originally scheduled. In light of the extended schedule, the Parties have agreed to request more time to respond to these motions.

Respectfully submitted,

STRYKER BIOTECH, LLC

MARK PHILIP,

/s/ Joshua S. Levy

By: Brien T. O'Connor (BBO #546767)
Joshua S. Levy (BBO #563017)
Ropes & Gray LLP
Prudential Tower
800 Boylston Street
Boston, MA 02199
617-951-7000
Brien.O'Connor@ropesgray.com
Joshua.Levy@ropesgray.com

/s/ Stephen G. Huggard

By: Stephen G. Huggard (BBO #622699)
Edwards Angell Palmer & Dodge
111 Huntington Avenue
Boston, MA 02199
617-239-0769
shuggard@eapdlaw.com

WILLIAM HEPPNER,

DAVID ARD,

/s/ Robert L. Ullmann

By: Robert L. Ullmann (BBO #551044)
Nutter McClennen & Fish, LLP
155 Seaport Blvd.
Boston, MA 02210
617-439-2262
rullmann@nutter.com
msethi@nutter.com

/s/ Brent Gurney

By: Brent Gurney (*pro hac vice* admission)
Wilmer Cutler Pickering Hale &
Dorr, LLP
1875 Pennsylvania Ave.
Washington, D.C. 20006
202-663-6000
Brent.Gurney@wilmerhale.com

JEFFREY WHITAKER,

/s/ Frank A. Libby, Jr.

By: Frank A. Libby, Jr. (BBO #299100)

LibbyHoopes

175 Federal Street

Boston, MA 02110

617-338-9300

fallibby@libbyhoopes.com

CARMEN M. ORTIZ

United States Attorney

By: /s/ Jeremy M. Sternberg

Jeremy M. Sternberg

Susan G. Winkler

Gregory Noonan

Assistant United States Attorneys

One Courthouse Way, Suite 9200

Boston, MA 02210

(617) 748-3100

Dated: September 22, 2011

CERTIFICATE OF SERVICE

I, Joshua Levy, certify that the within Joint Motion to Extend Time for Filing Responses to the Government's Motions to Exclude Expert Testimony and to Exclude Evidence Not Provided Prior to September 30, 2011 and to Defendants' Motions to Sever was electronically filed on the 22nd day of September, 2011 and thereby delivered by electronic means to all registered participants as identified on the Notice of Electronic Filing ("NEF") and that paper copies will be sent to those indicated as non-registered participants on September 22, 2011.

/s/ Joshua S. Levy

Joshua S. Levy